



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,775	03/15/2001	Alan R. Peters	FLT-53-DIV-II	6662

7590

08/07/2003

RICHARD D. GETZ  
MCCORMICK, PAULDING & HUBER LLP  
185 ASYLUM STREET  
CITY PLACE II  
HARTFORD, CO 06103-3402

EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/07/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/808,775

Applicant(s)

PETERS ET AL.

Examiner

Kenneth E Peterson

Art Unit

3724

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G..213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 13-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3724

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kozyrski et al. '023, who shows in figure 3 a blade magazine (222) with all of the recited parts including a body having a flange (242) that is at the same angle as the blade cutting edge (252). The screw (248), ball (line 27, column 8), and opposing plate constitute a means for retaining the blade against the flange.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esterly in view of Kozyrski et al. '023.

Esterly shows a head assembly with most of the recited limitations, including an oblique channel (41), a slide (57) having a “cooperating mechanical means” (42,43) and a blade holder (32,36,38).

Esterly's blade holder (32,36,38) is not a blade magazine that is held in a second

channel. However, in the art of mat cutting, Kozyski shows that it is well known for the blade to be held in a magazine (222, as set forth above), and for that magazine to reside in a channel (as best seen in figure 3). It would have been obvious to one of ordinary skill in the art to have modified Esterly making the blade holder be a blade magazine in a channel, as taught by Kozyski, in order to more firmly hold the blade and prevent lateral dislocation of the blade.

5. Claims 1-12 are allowed.

6. Applicant's arguments have been fully considered but they are not persuasive.  
Applicant has overcome the rejection under 35 USC 112.

Applicant argues the rejections of claims 17 and 18, stating that Kozyski does not show a "*means for holding a cutting edge of the blade in contact with the flange*". Kozyski's lower flange (242, not shown but on the bottom of the right front plate 222 in figure 3) is designed to retain the blade within the blade magazine (222,222), so naturally the blade can be held against it. The means for doing so are the screw (248) and the ball (line 27, column 8). While these elements may not be exerting much of a force perpendicular to the flange 242, they nonetheless are capable of "*holding a cutting edge of the blade in contact with the flange*".

The fact that the Kozyski reference reads on Applicant's claims 17 and 18 is simply an indication that those claims are too broad. There are dozens of simple things that could be added to claim 17 to distinguish over Kozyski. For example, Applicant

could recite a sliding path (along groove 136) for the blade and then recite that the flange is oblique thereto. Or Applicant could simply recite that Kozyrski's blade has a cutting edge that is oblique to all of the other edges of the blade.

Applicant argues the rejection of claims 13-16, stating that there is no suggestion to modify Esterly by replacing Esterly's blade with a blade magazine, since Esterly seems to do fine without a blade magazine.

To answer this question, one must look at the secondary reference to Kozyrski to see what it would suggest. Kozyrski is like Applicant's device in several ways. Firstly, it has a plunging blade motion (pivoting of 146, whereas Applicant slides in a channel), and secondly it has a blade magazine adjustably held in a channel. Why does Kozyrski have a blade magazine when simply bolting the blade on would arguably suffice? Firstly, Kozyrski is very much concerned with accuracy (e.g. line 50, column 1). To achieve accuracy, the blade must be held firmly. Esterly's blade, on the other hand, is held on by a single bolt (38) and could be torqued rotationally out of position. It is far more accurate to hold the blade in a blade magazine in a channel, as suggested by Kozyrski, thus one of ordinary skill would be motivated to provide a blade magazine in a channel on Esterly. Secondly, a blade magazine, such as in Kozyrski enables the blade to be adjusted on the slide, thus varying the amount blade exposure (this is in distinction to Applicant's (160,161) and Esterly's (42,43) 1<sup>st</sup> adjuster, which varies blade depth). The varying of the amount of blade exposure enables different thickness of work to be cut. The additional function of blade exposure adjustment taught by Kozyrski would

suggest, for the second time, the desirability of having a blade magazine in a channel, as opposed to just bolting the blade onto the slide.

Again, this is a rejection that is quite easy to overcome. One could take the actions suggested for claim 17 and apply them here as well. Also, Applicant's screw 152 and peg 150, if properly claimed, are not to be found in Esterly nor Kozyrski.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp August 6, 2003



KENNETH E. PETERSON  
PRIMARY EXAMINER